UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

SCOTT F. CREE,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. 2:21-CV-00208
	§	
BRACO, *et al.*,	§	
	§	
Defendants.	§	

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION
TO RETAIN CASE AND DISMISS CERTAIN CLAIMS

On March 11, 2022, United States Magistrate Judge Julie K. Hampton issued a

"Memorandum and Recommendation to Retain Case and Dismiss Certain Claims" (M&R,

D.E. 31). Plaintiff was provided proper notice of, and opportunity to object to, the

Magistrate Judge's M&R. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); General Order No.

2002-13. No objections have been timely filed.

When no timely objection to a magistrate judge's M&R is filed, the district court

need only satisfy itself that there is no clear error on the face of the record and accept the

magistrate judge's M&R. *Guillory v. PPG Industries, Inc.*, 434 F.3d 303, 308 (5th Cir.

2005) (citing *Douglass v. United Services Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996)).

Having reviewed the findings of fact and conclusions of law set forth in the

Magistrate Judge's M&R (D.E. 31), and all other relevant documents in the record, and

finding no clear error, the Court **ADOPTS** as its own the findings and conclusions of the

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Magistrate Judge. Accordingly, the Court **RETAINS** Plaintiff's Eighth Amendment claim for failure to protect against Sgt. Braco in his individual capacity. Plaintiff's claim for money damages against Sgt. Braco in his official capacity is **DISMISSED WITH PREJUDICE** as barred by the Eleventh Amendment; Plaintiff's claim seeking injunctive relief against Executive Director Collier in his official capacity is **DISMISSED** as barred by the Eleventh Amendment; and Plaintiff's claim against Offender Diaz is **DISMISSED WITH PREJUDICE** as frivolous and/or for failure to state a claim pursuant to §§ 1915(e)(2)(B) and 1915A(b)(1).

   ORDERED on April 18, 2022.
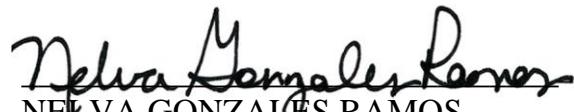
             NELVA GONZALES RAMOS
             UNITED STATES DISTRICT JUDGE